TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

GUIDELINES FOR WATER QUALITY CERTIFICATIONS

GENERAL: Section 401 of the Federal Clean Water Act (CWA) requires states to certify that a proposed CWA Section 404 permit will not violate water quality standards. The Texas Natural Resource Conservation Commission (TNRCC) makes these certifications for all projects except those related to the exploration, development and production of oil, gas, or geothermal resources, which the Texas Railroad Commission certifies.

Either an applicant or the Corps may request the water quality certification. Filing an application with the appropriate Corps District initiates both the 404 permit and the 401 certification processes. The Corps and the TNRCC use a Joint Public Notice to inform the public and governmental entities of the scope of work requiring the Section 404 permit and 401 certification. The Joint Public Notice initiates a 30-day comment period for the TNRCC certification. A potentially affected person may submit comments or request that the TNRCC conduct a public hearing addressing the potential for the proposed activity to adversely impact water quality. TNRCC may request the applicant, a person submitting comments or requesting a hearing, or other resource agencies to provide additional information during the 401 certification review. The TNRCC will provide the Corps, the applicant and other interested persons with a copy of the 401 certification decision after the comment period and/or public hearing.

INFORMATION TO INCLUDE IN CORPS OF ENGINEERS APPLICATION

The TNRCC's review of the application is generally limited to the primary impact of the project on water quality. Secondary impacts of a completed project may also be considered. With this in mind, the applicant should include a complete discussion, when applicable, of how the following items will be addressed during construction or upon completion of the project:

1) Will wetlands be disturbed, altered or destroyed by the proposed activity? If yes, indicate the number of acres that will be impacted.

2) If wetlands will be impacted, is mitigation proposed? If yes, submit a mitigation plan. If no, explain why not.

3) The discharge of oil, gasoline, fuels or other materials capable of causing pollution is prohibited. If there is the

potential for a spill to occur during construction, include a description of the methods for recovering released products, including the disposal of contaminated soils.

4) Describe the methods for disposal of materials recovered from the removal or destruction of existing structures?

5) Describe the methods for the disposal of sewage generated during construction from on-shore and/or off-shore activities? If the work proposed establishes a business or subdivision, describe the method for disposal of sewage after completion of the project.

6) Describe methods to minimize the short and long term turbidity and suspended solids in the waters being dredged and/or filled. Also describe the type of sediment (sand, clay, etc) that will be dredged or used for fill.

7) Describe measures that will be used to stabilize disturbed soil areas, including, but not limited to, dredge material mounds, new levees or berms, building sites, and construction work areas. The description should address both short-term (construction related) and long-term (normal operation or maintenance) measures. Typical measures might include containment structures, drainage modifications, sediment fences, or providing vegetative cover. Special construction techniques intended to minimize soil or sediment disruption should also be described.

8) Discuss provisions for the placement of hydraulically dredged materials in a facility (levee/dike, etc.) that will ensure maximum settling of solids before dredged water returns to the waters in the state. Plans should include a calculation of minimum settling times with supporting data. (Reference: Technical Report, DS-7810, Dredge Material Research Program, GUIDELINES FOR DESIGNING, OPERATING, AND MAINTAINING DREDGED MATERIAL CONTAINMENT AREAS) If maintenance dredging will be required, the disposal site should be designed to accommodate additional dredged materials or include plans for the periodic removal of the dried sediments for appropriate use/disposal.

9) Describe any methods to test the sediments for contamination, especially where the dredging is in an area known or likely to be contaminated, such as downstream of municipal or industrial wastewater discharges.

10) Marinas should include in their overall design provisions for the collection and disposal of sewage from marine sanitation devices, when berthing of such vessels may occur. Also, discuss provisions for the disposal of sewage generated in normal day to day activities.

11) If the permitted activity results in either a residential or industrial development, the applicant should be aware that local, state, and federal permits or authorizations may be required for the treatment and disposal of wastewater, process waters, air emissions, and/or solid/hazardous waste disposal. THE CORPS APPLICATION FOR A SECTION 404 PERMIT SHOULD IDENTIFY ALL ACTIVITIES FOR WHICH OTHER PERMITS/AUTHORIZATIONS ARE REQUIRED AND DISCUSS PLANS FOR OBTAINING THE PERMITS/AUTHORIZATIONS OR FOR OBTAINING SERVICES FROM ANOTHER PERMITTED/LICENSED FACILITY.

12) The Texas Natural Resource Conservation Commission request that the applicant submit photographs or a video cassette showing the project area and associated disposal areas. Also, the applicant should submit a U.S.G.S. 7.5 minute topographic map that identifies the location and area covered in each photo. The photos and map should be sent to:

Texas Natural Resource Conservation Commission
Attn: 401 Coordinator
Water Planning and Assessment Division
P.O. Box 13087
Austin, Texas 78711-3087